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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,684	06/09/2000	Joseph M. Cannon	CANNON 103-92-50	2761

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EXAMINER

BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 03/01/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/590,684

Applicant(s)

CANNON ET AL.

Examiner

Walter F Briney III

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See continuation sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


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PRIMARY EXAMINER

The amendments are not entered because they constitute further search and consideration.

In regards to claims 1, 15, and 22, the applicant amended the claims to include the limitation wherein **a proximity determinator repeatedly determines a distance**, which requires further search and consideration. Repeatedly determining a distance narrows the claims such that distance measurement must be a repeating process. In all previous actions, the proximity determinator had no limitation in regards to temporal activity, but is now limited to a pattern of repeated distance determination.

Response to Arguments

Applicant's arguments to all claim rejections filed 2nd February 2004 have been fully considered but they are not persuasive.

In regard to claims 1-6, 10-19, and 22-25 the Applicants allege that **the theoretical combination of Kato and Yamamoto would at best suggest changing an acoustic coupling between a loudspeaker and a microphone only in a base unit of a cordless telephone containing a loudspeaker telephone**; the Examiner respectfully disagrees. Yamamoto disclose a cordless telephone that is capable of having the microphone and speaker active in both the handset and the base unit simultaneously (column 8, line 36-column 9, line 15 and figures 2, 5, and 8). Kato teaches that an acoustic coupling between a microphone and a speaker occurs in loud speaking telephones (column 1, lines 12-49). Therefore, in the loud speaking system of Yamamoto acoustic coupling occurs between the speaker of the base unit and the

microphone of the handset since they operate simultaneously. Kato teaches removing the effects of the acoustic coupling by inserting control variable loss circuits that are controlled based on the distance between a microphone and speaker (column 2, line 43-column 3, line 13).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In regard to claims 7, 20, and 26 the Applicants allege that **the combination of Yamamoto in view of Kato in further view of Ravi fails to find a distance between a handset and a base unit of a cordless telephone, much less basing attenuation on such a wireless distance**; the Examiner respectfully disagrees. Starting with the combination of Yamamoto in view of Kato there is a cordless phone with a handset and base unit whose acoustic coupling is controlled by controlling variable attenuators based on the distance between the handset and base unit. In general Ravi teaches to measure distance between a wireless telephone and a remote station using round trip timing (column 2, lines 21-50 and column 6, lines 57-65). Yamamoto in view of Kato

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and in further view of Ravi makes obvious using the round trip delay as taught by Ravi as a measurement of distance between a cordless telephone and a remote base unit.

In regard to claims 8, 9, 21, and 27 the Applicants allege that **the combination of Yamamoto in view of Kato and in further view of Ayoub fails to use GPS to determine distance between the telephone and any other object**; the Examiner respectfully disagrees. Ayoub teaches a cell phone that learns its location through a GPS tracking system and then sends its position to a remote base station over a communication channel (column 3, line 66-column 4, line 47) and (column 6, lines 57-65), and the position received at the station can be applied to the teaching of Yamamoto in view of Kato so that the location is used to determine the distance between a speaker on a base unit and a microphone on a handset as taught by Kato. The Applicants further allege that **the combination of Yamamoto in view of Kato and in further view of Ayoub fails to disclose or suggest finding a distance between a handset and a base unit of a cordless telephone, much less basing attenuation on such a wireless distance**; the Examiner respectfully disagrees. Yamamoto in view of Kato and in further view of Ayoub makes obvious using the GPS location of a wireless phone (i.e. cordless phone) in a distance calculation between a speaker of a base unit and a microphone of a handset. Once the distance is determined by GPS the attenuation device controls the attenuation between all present microphones and speakers so acoustic coupling is reduced as taught by Kato.

Applicant's arguments with respect to the new amendments (i.e. **a proximity determinator repeatedly determines a distance**) are not considered because the amendment's have not been entered.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F Briney III whose telephone number is 703-305-0347. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).